



Journal of the Senate

State of Indiana

114th General Assembly

First Regular Session

Thirty-sixth Meeting Day

Monday Afternoon

March 28, 2005

The Senate convened at 1:32 p.m., with the President Pro Tempore of the Senate, Robert D. Garton, in the Chair.

PAUL, Chair

Prayer was offered by Pastor Mark Pflughoeft, Hope Lutheran Church, Lowell, the guest of Senator Dorothy S. "Sue" Landske.

The Pledge of Allegiance to the Flag was led by Senator Landske.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting	Long
Antich-Carr	Lubbers
Bowser	Lutz <input checked="" type="checkbox"/>
Bray	Meeks
Breaux	Merritt
Broden	Miller
Clark	Mishler
Craycraft	Mrvan
Dillon	Nugent
Drozda	Paul
Ford	Riegsecker
Gard	Rogers
Garton	Server
Harrison	Simpson <input checked="" type="checkbox"/>
Heinold	Sipes
Hershman	Skinner
Howard	Smith
Hume	Steele
Jackman	Waltz
Kenley	Waterman
Kruse	Weatherwax
Lanane	Wyss
Landske	Young, M.
Lawson	Young, R.
Lewis	Zakas

Roll Call 310: present 48; excused 2. [Note: A ☒ indicates those who were excused.] The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred Engrossed House Bill 1219, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.
Committee Vote: Yeas 8, Nays 0.

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred Engrossed House Bill 1402, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.
Committee Vote: Yeas 7, Nays 0.

PAUL, Chair

Report adopted.

RESOLUTIONS ON SECOND READING

Senate Concurrent Resolution 42

Senator Landske called up Senate Concurrent Resolution 42 for second reading. The resolution was read a second time by title and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsors: Representatives Lehe and Torr.

Senate Concurrent Resolution 37

Senator Heinold called up Senate Concurrent Resolution 37 for second reading. The resolution was read a second time by title and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsor: Representative Ayres.

Senate Concurrent Resolution 48

Senator Riegsecker called up Senate Concurrent Resolution 48 for second reading. The resolution was read a second time by title and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsors: Representatives Duncan and Adams.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Senate Concurrent Resolution 53 and the same is herewith returned to the Senate.

M. CAROLINE SPOTTS
Principal Clerk of the House

ENGROSSED HOUSE BILLS ON SECOND READING

Engrossed House Bill 1073

Senator Riegsecker called up Engrossed House Bill 1073 for

second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 1073-1)

Madam President: I move that Engrossed House Bill 1073 be amended to read as follows:

Page 6, line 17, after "(C)" insert "**The last four (4) digits of the complainant's**".

(Reference is to EHB 1073 as printed March 25, 2005.)

HERSHMAN

Motion prevailed. The bill was ordered engrossed.

Engrossed House Bill 1080

Senator Server called up Engrossed House Bill 1080 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 1080-1)

Madam President: I move that Engrossed House Bill 1080 be amended to read as follows:

Delete the title and insert the following:

"A BILL FOR AN ACT to amend the Indiana Code concerning former governors."

Page 2, after line 2, begin a new paragraph and insert:

"SECTION 2. IC 14-20-1-24.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24.5. (a) As used in this section, "Indiana State Museum" refers to the museum located in the White River State Park located in Indianapolis.

(b) The museum's great hall shall be known as the "Governor Frank O'Bannon Great Hall".

(c) The president and chief operating officer of the museum shall install and maintain the following:

(1) Appropriate public signage on and around the museum that displays the name of the great hall.

(2) A plaque located at an appropriate spot in the museum describing the highlights of the life and career of Governor Frank O'Bannon."

(Reference is to EHB 1080 as printed March 25, 2005.)

R. YOUNG

Motion prevailed. The bill was ordered engrossed.

Engrossed House Bill 1112

Senator Long called up Engrossed House Bill 1112 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed House Bill 1224

Senator Ford called up Engrossed House Bill 1224 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed House Bill 1270

Senator Wyss called up Engrossed House Bill 1270 for second reading. The bill was read a second time by title. There being no

amendments, the bill was ordered engrossed.

Engrossed House Bill 1302

Senator Jackman called up Engrossed House Bill 1302 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed House Bill 1306

Senator Server called up Engrossed House Bill 1306 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 1306-1)

Madam President: I move that Engrossed House Bill 1306 be amended to read as follows:

Page 1, line 5, after "means" insert "**the following:**

(1)".

Page 1, line 7, delete "means." and insert "**means; or**

(2) a financial or other material incentive or benefit that is directly or indirectly related to the physician referral."

(Reference is to EHB 1306 as printed March 18, 2005.)

DILLON

Motion prevailed.

SENATE MOTION
(Amendment 1306-3)

Madam President: I move that Engrossed House Bill 1306 be amended to read as follows:

Page 1, line 5, after "Sec. 1." insert "**(a)".**

Page 1, between lines 7 and 8, begin a new paragraph and insert: "**(b) The term does not include the following:**

(1) Ownership of investment securities (including shares or bonds, debentures, notes, or other debt instruments) which may be purchased on terms generally available to the public and which are:

(A) securities:

(i) listed on the New York Stock Exchange, the American Stock Exchange, any regional exchange in which quotations are published on a daily basis, or foreign securities listed on a recognized foreign, national, or regional exchange in which quotations are published on a daily basis; or

(ii) traded under the National Association of Securities Dealers, Inc. Automated Quotations System; and

(B) in a corporation that had, at the end of the corporation's most recent fiscal year, or on average during the previous three (3) fiscal years, stockholder equity exceeding seventy-five million dollars (\$75,000,000).

(2) Ownership of shares in a regulated investment company as defined in section 851(a) of the Internal Revenue Code of 1986, if such company had, at the end of the company's most recent fiscal year, or on average during the previous three (3) fiscal years, total assets exceeding seventy-five million dollars (\$75,000,000)."

(Reference is to EHB 1306 as printed March 18, 2005.)

DILLON

Motion prevailed. The bill was ordered engrossed.

Engrossed House Bill 1335

Senator Kruse called up Engrossed House Bill 1335 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed House Bill 1358

Senator Miller called up Engrossed House Bill 1358 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed House Bill 1365

Senator Lewis called up Engrossed House Bill 1365 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed House Bill 1432

Senator Merritt called up Engrossed House Bill 1432 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed House Bill 1453

Senator Clark called up Engrossed House Bill 1453 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed House Bill 1501

Senator Server called up Engrossed House Bill 1501 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed House Bill 1525

Senator M. Young called up Engrossed House Bill 1525 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 1525-1)

Madam President: I move that Engrossed House Bill 1525 be amended to read as follows:

Page 2, line 23, delete "Tangible" and insert "(a) Subject to this section, tangible".

Page 2, between lines 32 and 33, begin a new paragraph and insert:

"(b) Not more than fifteen (15) acres of real property owned by an organization described in subsection (a) is exempt from property taxation under this section.

(c) Tangible property owned by an organization that violates, or permits the violation of:

- (1) IC 4-31;
- (2) IC 4-32;
- (3) IC 4-33; or
- (4) IC 35-45-5;

on real property owned by the organization is not exempt from property taxation under this section.

(d) Property referred to in this section shall be assessed to the extent required under IC 6-1.1-11-9."

(Reference is to EHB 1525 as printed March 25, 2005.)

HERSHMAN

Motion prevailed. The bill was ordered engrossed.

Engrossed House Bill 1580

Senator Ford called up Engrossed House Bill 1580 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed House Bill 1594

Senator Landske called up Engrossed House Bill 1594 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed House Bill 1649

Senator Weatherwax called up Engrossed House Bill 1649 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed House Bill 1666

Senator Jackman called up Engrossed House Bill 1666 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed House Bill 1765

Senator Weatherwax called up Engrossed House Bill 1765 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 1765-1)

Madam President: I move that Engrossed House Bill 1765 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 14-8-2-169.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 169.5. "Motorized cart", for purposes of IC 14-19-1-1, has the meaning set forth in IC 14-19-1-0.5.**

SECTION 2. IC 14-8-2-185 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 185. (a) "Off-road vehicle", for purposes of IC 14-16-1 ~~has the meaning set forth in IC 14-16-1-3~~ and IC 14-19-1-0.5, means a motor driven vehicle capable of cross-country travel:**

- (1) without benefit of a road; and
- (2) on or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain.
- (b) The term includes the following:
 - (1) A multi-wheel drive or low pressure tire vehicle.
 - (2) An amphibious machine.
 - (3) A ground effect air cushion vehicle.

- (4) Other means of transportation deriving motive power from a source other than muscle or wind.
- (c) The term does not include the following:
 - (1) A farm vehicle being used for farming.
 - (2) A vehicle used for military or law enforcement purposes.
 - (3) A construction, mining, or other industrial related vehicle used in performance of the vehicle's common function.
 - (4) A snowmobile.
 - (5) A registered aircraft.
 - (6) Any other vehicle properly registered by the bureau of motor vehicles.
 - (7) Any watercraft that is registered under Indiana statutes.
 - (8) A golf cart vehicle.

SECTION 3. IC 14-8-2-261 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 261. "Snowmobile", for purposes of IC 14-8-2-185 and IC 14-16, means a motor driven vehicle:

- (1) designed for travel primarily on snow or ice; and
- (2) of a type that uses:
 - (A) sled type runners or skis;
 - (B) an endless belt tread; or
 - (C) any combination of these or other similar means of contact with the surface upon which the vehicle is operated."

Page 2, between lines 25 and 26, begin a new paragraph and insert:

"SECTION 5. IC 14-19-1-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.5. (a) "Motorized cart" means a conveyance that is:

- (1) motor driven, either by gas or electricity;
- (2) used to carry passengers or equipment; and
- (3) smaller than the types of motor vehicles required to be registered by the bureau of motor vehicles such as a:
 - (A) passenger motor vehicle (as defined in IC 9-13-2-123);
 - (B) recreational vehicle (as defined in IC 9-13-2-150); or
 - (C) truck (as defined in IC 9-13-2-188).

A motorized cart may be characterized as a golf cart, utility cart, or similar form of motor vehicle.

- (b) The term does not include:
 - (1) an electric personal assistive mobility device (as defined in IC 9-13-2-49.3);
 - (2) a motorcycle (as defined in IC 9-13-2-108);
 - (3) a motor scooter (as defined in IC 9-13-2-104);
 - (4) a motorized bicycle (as defined in IC 9-13-2-109); or
 - (5) an off-road vehicle.

SECTION 5. IC 14-19-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The department shall do the following:

- (1) Have the custody of and maintain the parks, preserves, forests, reservoirs, and memorials owned by the state.
- (2) Adopt the necessary rules under IC 4-22-2 to secure enforcement of this title, **which must include provisions for**

the use of motorized carts during the hours specified in IC 9-21-7-2(a)(1) at state parks and recreation areas by an individual who is the holder of a driver's license and who:

- (A) is at least sixty-five (65) years of age; or**
- (B) has a disability as defined by the federal Social Security Administration guidelines (42 U.S.C. 416).**
- (3) Prepare, print, post, or distribute printed matter relating to the state parks and preserves.
- (4) Subject to the approval of the governor, purchase land for parks or preserves and scenic and historic places. For the purpose of acquiring land for parks or preserves and scenic and historic places, the commission may exercise the power of eminent domain in the manner provided in IC 14-17-3.
- (5) Accept in the name of the state by gift or devise the fee or other estate in land or scenic or historic places.
- (6) Employ, with the approval of the authorities having control of a state penal institution, the convicts committed to a penal institution for the purpose of producing or planting trees, clearing, improving, repairing, draining, or developing land purchased or acquired by the state for parks or preserves or as scenic or historic places.
- (7) Have the custody of all abstracts of title, papers, contracts, or related memoranda except original deeds to the state, for land purchased or received for parks or preserves or for scenic or historic purposes under this section.

(8) Cooperate with:

- (A) the department of environmental management;
 - (B) other state agencies; and
 - (C) local units of government;
- to protect the water and land of Indiana from pollution.

(9) Have general charge of the navigable water of Indiana."

Page 7, after line 34, begin a new paragraph and insert:

"SECTION 13. IC 14-16-1-3 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 14. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 14-19-1-1(2), as amended by this act, the department of natural resources shall carry out the duties imposed upon it under IC 14-19-1-1(2) under interim written guidelines approved by the director of the department of natural resources.

(b) This SECTION expires on the earlier of the following:

- (1) The date rules are adopted under IC 14-19-1-1(2).
- (2) December 31, 2006.

SECTION 15. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1765 as printed March 22, 2005.)

LEWIS

Motion prevailed. The bill was ordered engrossed.

Engrossed House Bill 1776

Senator Miller called up Engrossed House Bill 1776 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed House Bill 1057

Senator Wyss called up Engrossed House Bill 1057 for second

reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 1057-1)

Madam President: I move that Engrossed House Bill 1057 be amended to read as follows:

Page 1, delete lines 4 through 11, begin a new line block indented and insert:

"(1) A container possessed by a person who is a passenger."

Page 1, after line 17, begin a new paragraph and insert:

"(b) For purposes of this section, a person is a "passenger" if the person:

(1) is not the driver of a motor vehicle; and

(2) is either:

(A) in the passenger compartment of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation; or

(B) in the living quarters of a house coach or house trailer."

Page 2, line 1, delete "(b)" and insert "(c)".

Page 2, line 12, delete "(c)" and insert "(d)".

(Reference is to EHB 1057 as printed March 25, 2005.)

HERSHMAN

Motion prevailed. The bill was ordered engrossed.

Engrossed House Bill 1153

Senator Zakas called up Engrossed House Bill 1153 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senator Garton yielded the gavel to Senator Jackman.

ENGROSSED HOUSE BILLS ON THIRD READING

Engrossed House Bill 1033

Senator Gard called up Engrossed House Bill 1033 for third reading:

A BILL FOR AN ACT concerning the environment.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 311: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1059

Senator Gard called up Engrossed House Bill 1059 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law and to make an appropriation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 312: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1078

Senator Weatherwax called up Engrossed House Bill 1078 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 313: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1135

Senator Ford called up Engrossed House Bill 1135 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 314: yeas 46, nays 2. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1183

Senator Dillon called up Engrossed House Bill 1183 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 315: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1553

Senator Miller called up Engrossed House Bill 1553 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 316: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act?

There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1653

Senator Gard called up Engrossed House Bill 1653 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 317: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Senator Jackman yielded the gavel to Senator Garton.

SENATE MOTION

Madam President: I move that Senators Waterman, Hume, and Kruse be added as cosponsors of Engrossed House Bill 1078.

WEATHERWAX

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Heinold be added as cosponsor of Engrossed House Bill 1649.

WEATHERWAX

Motion prevailed.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1112, which was ordered engrossed on March 28, 2005, be returned to second reading for purposes of amendment.

LONG

Motion prevailed.

SENATE MOTION

Madam President: I move we adjourn until 1:30 p.m., Tuesday, March 29, 2005.

LONG

Motion prevailed.

The Senate adjourned at 3:06 p.m.

MARY C. MENDEL
Secretary of the Senate

REBECCA S. SKILLMAN
President of the Senate